

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

ANTHONY GLENN GLASS §
v. § CIVIL ACTION NO. 5:11cv174
SHERIFF JAMES PRINCE, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND DENYING PLAINTIFF'S MOTION TO ALTER OR AMEND THE JUDGMENT

The Plaintiff Anthony Glass, a former inmate of the Bowie County Jail in Texarkana, Texas, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Glass complained that he was held 81 days beyond the expiration of his sentence. On April 25, 2005, he was sentenced to 18 months in state jail, with credit for time served; however, the evidence shows that the judgment of conviction erroneously failed to grant Glass the time credit. On July 7, 2005, when the error was discovered, an amended judgment was entered giving Glass credit for time served between March 19, 2003, and April 25, 2005. Once this judgment was received by TDCJ, Glass' sentence was recalculated and he was released.

Glass sued the Sheriff and District Clerk of Bowie County, as well as the county itself. The Defendants were served with process and filed a motion to dismiss, to which Glass filed a response.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the motion to dismiss be granted and that the lawsuit be dismissed. The Magistrate Judge concluded that the statute of limitations had expired on Glass' claims, none of the parties sued had any legal liability

in the matter, and the Sheriff and District Clerk were entitled to qualified immunity. Glass did not file objections to the Report, and the lawsuit was dismissed on July 12, 2012.

On July 23, 2012, Glass filed a motion for relief from judgment, stating that he had never received a copy of the Magistrate Judge's Report and thus had not had an opportunity to file objections. The Magistrate Judge ordered that Glass be sent a copy of the Report and that he be given 30 days in which to file objections. Glass did file objections, which the Magistrate Judge properly construed as a motion to alter or amend the judgment under Rule 59, Fed. R. Civ. P.

After review of Glass' pleadings, the Magistrate Judge issued a Report on November 21, 2012, recommending that Glass' motion to alter or amend the judgment be denied. On December 19, 2012, Glass filed a motion for extension of time in which to object to the Magistrate Judge's Report on his motion to alter or amend the judgment. This motion was granted and Glass was given until February 19, 2013, in which to file such objections as he may have. Glass received a copy of the order on January 31, 2013, giving him ample time in which to file objections, but none have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 36) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion to alter or amend the judgment (docket no. 31) is hereby DENIED. It is further

ORDERED that any and all other motions which may be pending in this case are hereby DENIED.

It is SO ORDERED.

SIGNED this 6th day of March, 2013.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE